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SAN FRANCISCO DISTRICT

PUBLIC NOTICE

US Army Corps
of Engineers

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 27619N DATE: July 7, 2003
RESPONSE REQUIRED BY: August 6, 2003

PERMIT MANAGER Kelley Reid PHONE: 707-443-0855 or e-mail- kelley.reid@spd02.usace.army.mil

1. **INTRODUCTION:** Mr. Marc Broussard has applied for an after-the-fact Department of the Army permit to fill approximately 3.1 acres of jurisdictional wetland and 1.7 acres of uplands for site preparation for a commercial development in South Fortuna. The POC for this project is Mr. Keith Hess, of Timberland Resources Consultants, 165 S. Fortuna Boulevard, Fortuna, California or call: 707-725-1897. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **PROJECT DESCRIPTION:** In 1999, the former property owner, James Littlefield requested a local contractor supply fill for the subject property. At some point, Mr. Mark Broussard purchased the property in order to develop a small commercial site and a 152-residence subdivision on the remainder of the 38 acres. Earlier this year, the work was reported to the Corps of Engineers as an unauthorized fill in wetlands. After confirmation, the Corps notified the contractor and property owner that the work was unauthorized and a permit would be required. Mr. Mark Broussard has modified his permit to only include the small commercial development, the site of the unpermitted fill.

The attached map (Sheet 1 of 5) is attached to further depict the project location in the southeast ¼ of Section 2, T2N-R1W, Humboldt County, California. This project would be found on the Fortuna Quadrangle (1:24,000) map from U.S.G.S. The project also described as 1049 South Fortuna Boulevard, in the City of Fortuna. The parcels (APN

202-121-14 and 202-121-41) are part of a larger (38 acres +/-) pasture in South Fortuna. A small part of the property is dominated by woody riparian vegetation, as shown in the attached drawings and will be avoided. The applicant plans to demolish the existing structure and to fill the 3.1-acre wetland pasture portion of the property as site preparation before sale to Mr. Larry DeBaney and Brendan McKinney. Approximately 20,000 cubic yards (CY) of fill were added to the wetland portion and 9000 CY of fill were added to 1.7 acres of uplands to bring the site to the finished grade before pavement and foundation would be added. The finished grade is approximately 4 ft. higher than the pre-project pasture. Approximately ½ acre of riparian wetlands in the southeast corner of the project area would be avoided (Sheet 2 of 5).

As shown on the attached map, *Commercial Development*, Mr. DeBaney and Mr. McKinney plan to construct a shopping center with four buildings surrounded by a parking lot. The buildings would be occupied by a hardware store, a printing service, and a drug store. The developers have completed other shopping centers in the county and have completed a needs-analysis for this project. The City of Fortuna is also completing a needs-analysis for the project, an assessment of public support, and stormwater conveyance and retention.

Approximately 3.1 acres of the proposed commercial development were jurisdictional wetland pasture, dominated by ruderal grasses, like bentgrass (*Agrostis stolonifera*), ryegrass (*Lolium perenne*) and herbs like

dock (*Rumex crispus*) and rush (*Juncus effusus*). The ½-acre of riparian wetlands is dominated by willows (*Salix lasiolepis*), blackberries (*Rubus discolor*), bentgrass (*Agrostis stolonifera*), velvet grass (*Holcus lanatus*), and rush (*Rumex crispus*). Upland areas are dominated by ryegrass (*Lolium perenne*) and velvet grass (*Holcus lanatus*). Timberland Resources Consultants provided a wetland report for the 5.5-acre project site (Sheet 3 of 5).

The discharge of fill and construction of a commercial facility will result in a loss of wetland functions and values at this location. In order to compensate for the loss of wetland functions and values, Mr. Broussard proposes mitigation by construction of 3.1 acres of wet pasture (Sheet 4 of 5) in the Scotia Bluffs above Rio Dell and preservation of 6.9 acres of existing wetlands (Sheet 5 of 5).

3. STATE APPROVALS: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification before a Corps permit may be issued. No Corps permit will be granted until the applicant obtains the required certification. A certification will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, North Coast Region, 5555 Skylane Boulevard, Santa Rosa, California 95403-1064, by the close of the comment period of this public notice.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA)

The Corps of Engineers will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of the Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

Endangered Species Act of 1973: Section 7 of the Endangered Species Act requires informal consultation if a federally permitted project may affect and is not likely to adversely affect Federally listed threatened or endangered species and formal consultation if the project may affect and is likely to adversely affect Federally listed species. The project area does not appear to be suitable habitat for any proposed, threatened, or endangered species.

National Historic Preservation Act of 1966: Based on a review of survey data on file with various City and State agencies, no historic or archaeological resources are known to occur in the project reach. Old records indicate that there was a site on an adjacent hilltop, but subsequent surveys in 1980 and 1987 have been unable to confirm the presence or nature of the site. Another site was located more than 400 feet to the southwest of the southwest corner of the project boundary; however, the available information does not identify the type or importance of the site. Most of the project site is predominantly lowlands that probably would have been upper tidal marsh a century ago. The existing on-site structure does not appear to be eligible for listing on the National List of Historic Places. It does not appear likely that the project contains unrecorded archaeological resources. A condition of

the (potential) permit would assure that if unrecorded historic or archaeological resources were discovered during the construction, such operations would be suspended

Compliance with the 404(b)(1) Guidelines:

Evaluation of this activity's impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344(b)). An evaluation under the 404(b)(1) Guidelines indicates that the project is not water/wetland dependent. The applicant has not submitted an Analysis of Alternatives and has been informed that such an analysis is required and will be reviewed for compliance with the guidelines. Evaluation of this activity's impact on the public interest will also include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act, 33 U.S.C. Section 1344(b).

5. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors, which become relevant in each particular case. The benefits that reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general

environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number 27619N, and the date of this notice and should be forwarded to this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public

hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting Mr. Kelley Reid of our field office at telephone 707-443-0855, or e-mail: kelly.reid@spd02.usace.army.mil. Details on any changes of a minor nature, which are made in the final permit action, will be provided on request.